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Attorney General  
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Robert R. Corbin

September 16, 1980

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Mr. Sidney B. Brinckerhoff  
Director  
Arizona Historical Society  
949 East Second Street  
Tucson, Arizona 85719

Re: I80-167 (R80-063)

Dear Mr. Brinckerhoff:

In your letter of February 5, 1980 you requested our opinion regarding the Arizona Historical Society's legal responsibility for restoration and care of items which do not belong to the state. As you explained in your letter, the Society owns and maintains two branch museums, in which the bulk of the collections on display belong to local historical societies rather than the state.

A.R.S. § 41-821 sets forth the powers and duties of the Society and provides, in pertinent part:

B. Subject to limitations imposed by law, the society may purchase, receive, hold, lease and sell property, real and personal, for the benefit of the state and use of the society.

\* \* \*

E. The treasurer shall have custody of the funds of the society, other than legislative appropriations. He shall hold the funds of the society coming into his hands in trust for the society's use and for the benefit of the state, and shall disburse them only as prescribed by law and the bylaws of the society.

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Pursuant to subsection B, the Society is authorized to receive, hold and lease property for the benefit of the state. Subsection E allows disbursement of the Society's funds "only as prescribed by law and the bylaws of the society."

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A.R.S. § 41-823.A authorizes the Society to procure certain enumerated items "by gift, exchange or purchase." Subsection B states:

"The collections and materials shall be housed suitably for protection, preservation and availability, properly catalogued and kept accessible to the public, without charge, during reasonable hours on business days."

The Society appears to have the authority to protect and preserve items which it has procured by means of gift, exchange or purchase. The statutory scheme does not authorize the Society to utilize state resources to catalogue or preserve items other than those obtained through procurement pursuant to A.R.S. § 41-823.A.

We therefore think that although the Society may receive, hold and lease property for the benefit of the state, it may use state resources only for the preservation and cataloguing of items procured pursuant to A.R.S. § 41-823.A.<sup>1/</sup>

Sincerely,



BOB CORBIN  
Attorney General

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<sup>1/</sup>This conclusion is supported by the provisions which make local historical societies responsible for caring for their own property. A.R.S. §§ 41-821.H and 41-831 et seq. set forth the permissible expenditures for local historical societies. A.R.S. § 41-833.A.7 provides for protection, preservation and cataloguing of its collections. A.R.S. § 41-833.B.1 specifically allows non-appropriated funds to be used for acquisition and restoration of museum specimens. It appears, then, that each historical society is responsible for preserving its own collections.

We note, however, that A.R.S. § 41-821.E allows disbursement of Society funds as prescribed by the Society's bylaws. If the bylaws permit expenditures for the preservation of items not owned by the state, such expenditures would be permissible, provided it can be demonstrated that the expenditures will benefit the state. A.R.S. § 41-821.B.